

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SILVER FERN CHEMICAL, INC., a  
Washington corporation,

Plaintiff,

v.

SCOTT LYONS, an individual, TROY KINTO,  
an individual, KING HOLMES, an individual,  
ROWLAND MORGAN, an individual, and  
AMBYTH CHEMICAL COMPANY, a  
Washington corporation,

Defendants.

Case No.

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Silver Fern Chemical, Inc. (“Silver Fern”), by and through its undersigned counsel, files this Complaint against Defendants Scott Lyons (“Lyons”), Troy Kinto (“Kinto”), King Holmes (“Holmes”), Rowland Morgan (“Morgan”), and Ambyth Chemical Company (“Ambyth,” and, collectively with Lyons, Kinto, Holmes, and Morgan, “Defendants”) and alleges the following.

**NATURE OF THE ACTION**

1. Scott Lyons, Troy Kinto, and King Holmes are all former employees and salespeople of Plaintiff Silver Fern Chemical, Inc., a chemical distribution company based in

1 Seattle. Though Silver Fern paid them hundreds of thousands of dollars annually (most of it in  
 2 commissions), Lyons, Kinto, and Holmes were all unhappy with their compensation.  
 3 Specifically, each complained about charges against their compensation at Silver Fern, as well as  
 4 Silver Fern's expectations regarding the extension of customer credit, carrying inventory, risk  
 5 management, and other requirements regarding their sales. Collectively, they all resigned from  
 6 Silver Fern on the same day: April 14, 2023. As part of their resignations, all three announced  
 7 that they were joining Defendant Ambyth Chemical Company—a much smaller supplier,  
 8 customer, and competitor of Silver Fern—as “Senior Partners” in Sales and Marketing.

9         2. Their resignation emails omitted the truth of the conspiracy in which they had  
 10 been engaged for months: to steal Silver Fern's trade secret customer and vendor information  
 11 (including by accessing its computers and customer, vendor, product, and financial information  
 12 while the office was closed), , to use their wrongfully-gained information to compete with their  
 13 former employer for their own economic benefit, and to attempt to cover up their actions by  
 14 “permanently” deleting thousands of emails and at least one Teams message.

15         3. Both before and after they left their employment with Silver Fern, all three  
 16 unlawfully and without authorization (1) breached their duties of loyalty and confidentiality to  
 17 Silver Fern, (2) accessed and retained Silver Fern's trades secrets (3) deleted confidential and  
 18 proprietary information from Silver Fern's computer systems, and (4) appropriated Silver Fern's  
 19 business relationships and opportunities for their own gain.

20         4. Defendants Lyons, Kinto, and Holmes engaged in this conduct not only for their  
 21 own benefit, but in concert and as part of a conspiracy with Defendants Morgan and Ambyth.

22         5. Last year, Silver Fern had over [REDACTED] in revenue. Of that [REDACTED], over  
 23 [REDACTED] came from its existing customer relationships that Defendants Lyons, Kinto, and Holmes

1 managed. These customer relationships were generated through Silver Fern's significant,  
2 confidential, and proprietary investment in customer acquisition.

3 6. Since their departure from Silver Fern, Defendants Lyons, Kinto, and Holmes  
4 each have—in violation of the confidentiality agreements they signed with Silver Fern and in  
5 violation of Washington and federal law—appropriated Silver Fern's confidential and trade  
6 secret information for their own benefit, and for the benefit of Defendants Morgan and Ambyth.

7 7. Defendants Morgan and Ambyth, in turn, have interfered with Silver Fern's  
8 contractual relationships—both with Defendants Lyons, Kinto, and Holmes, on the one hand,  
9 and Silver Fern's customers and vendors, on the other—for their own benefit.

10 8. Silver Fern Chemical brings this Complaint to enjoin Defendants' unlawful use of  
11 Silver Fern's confidential and trade secret information, as well as to recover its damages,  
12 including double damages, attorneys' fees, and costs.

13 **THE PARTIES**

14 9. Plaintiff Silver Fern Chemical, Inc. is a Washington corporation with its principal  
15 place of business in Seattle, Washington.

16 10. Defendant Scott Lyons is a citizen and resident of the State of Montana.

17 11. Defendant Troy Kinto is a citizen and resident of the State of Texas.

18 12. Defendant King Holmes is a citizen and resident of the State of Washington.

19 13. Defendant Rowland Morgan is a citizen and resident of the State of Washington.

20 14. Defendant Ambyth Chemical Company is a Washington corporation with its  
21 principal place of business in Seattle, Washington.

## JURISDICTION AND VENUE

15. This Court has jurisdiction over this action under 28 U.S.C. § 1331 because Plaintiff states a cause of action arising under the laws of the United States, namely, the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, and the Defend Trade Secrets Act, 18 U.S.C. § 1836. This Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367(c) because Plaintiff's state law claims are so related to claims in this action within the Court's original jurisdiction that they form part of the same case or controversy.

16. This Court has personal and general jurisdiction over Defendants Holmes and Morgan because they reside in this District. This Court has personal and general jurisdiction over Defendant Ambyth because Defendant Ambyth's principal place of business is located in this District, and Defendant conducts substantial business in Washington and this District through its principal place of business.

17. This Court has personal jurisdiction over Defendants Lyons and Kinto because their tortious conduct was committed in or directed to this District, or both.

18. Venue is likewise proper as to Defendants in this District under 28 U.S.C. § 1391 because Defendant Ambyth is headquartered in this District and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

## FACTUAL ALLEGATIONS

### **A. Silver Fern Chemical, Inc. is a significant player in chemical distribution.**

19. Silver Fern was founded in 2004 by just two individuals: Lisa and Sam King. In the nearly twenty years since, it has grown to be a significant player in chemical distribution, serving such industries as agriculture; food and pharmaceuticals; household and industrial cleaning; oil, gas, and mining; specialty chemical manufacture; water treatment; and more. Its

1 hundreds of customers include household names like Sherwin Williams, PPG, Michelin, and SC  
2 Johnson, as well as less well-known manufacturers nationwide and internationally. Silver Fern  
3 distributes chemicals throughout the United States, Canada, the United Kingdom, Ireland, Korea,  
4 China, Australia, Mexico, and Taiwan.

5 20. When Silver Fern began, it had only one employee: Sam King. Over the next few  
6 years, Silver Fern worked up to four or five employees. Every one of those employees helped to  
7 run nearly every aspect of the business, from taking and processing purchase orders, arranging  
8 for delivery of its products, and preparing invoices to going to the bank to deposit checks.

9 21. Over time, and with the dedicated work of its principals, Silver Fern grew to  
10 support hundreds of businesses. Last year, it generated over [REDACTED] in revenue.

11 22. But chemical distribution is no ordinary business that can be started by  
12 individuals with no know-how. Fulfilling orders for highly-specialized chemicals is a complex,  
13 costly, regulated, and risk-intensive endeavor. While Silver Fern's customers are, in some cases,  
14 household names, the chemicals used by Silver Fern's customers are most often not: Silver Fern  
15 distributes hundreds of chemicals ranging from Aminoethylpiperazine (AEP) to  
16 Tripropyleneglycol Diacrylate and Alpha Amylase.

17 **B. Silver Fern's customer relationships.**

18 23. Indeed, success in the chemical distribution business is based not merely on the  
19 ability to identify the right customers, but also intimate familiarity with the details of those  
20 customers' needs, and hard-won trust and confidence based in experience over time.

21 24. Silver Fern spent years and millions of dollars over the course of its existence  
22 building such relationships and its brand. Relationships are capital in this highly-specialized  
23 industry.

1           25.     In many cases, a customer relationship begins with an online customer product  
2 inquiry, or “active prospect”—contact from a potential customer that can lead to a profitable  
3 customer-to-business relationship. Silver Fern’s online customer product inquiry generation  
4 system took years of time, money, and energy to develop, and involves a complex process of  
5 driving potential customers to Silver Fern’s website, including through sophisticated website  
6 design, organic search engine optimization, and online advertising, all of which required  
7 immense investments of time and money. In addition, in the last decade alone, Silver Fern has  
8 paid nearly \$2 million in costs associated with advertising, dues and subscriptions, travel, and  
9 participation in trade shows, which were all designed to drive active prospects to Silver Fern.  
10 Over the years, Silver Fern has marketed for and received thousands of active prospects, many of  
11 which it has been able to convert into ongoing customer relationships through the time (and  
12 compensation) of its sales team. Indeed, in the last ten years, Silver Fern paid Defendants Lyons,  
13 Kinto, and Holmes a combined \$8.7 million in salaries and profit sharing alone.

14           26.     [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20           27.     This is especially true as the supply chain has become more complicated during  
21 and after the COVID-19 pandemic. For its imported products, Silver Fern had to plan and order  
22 products before its customers needed them—and had to pay to ship and store those products. The  
23 data needed to meet the just-in-time supply and demand chain for its customers and to maintain a

1 competitive pricing edge is collected, stored, analyzed, and maintained by Silver Fern at its  
2 expense. Silver Fern's data is such a central part of its overall business operations that its  
3 employees depend on daily reports generated by its accounting and customer service departments  
4 to meet customer demands.

5         28. Silver Fern also collects and maintains important contact information about the  
6 customer point person for purchasing its chemicals. When Silver Fern is servicing a company  
7 like Michelin, for example, it is not enough that its customer is "Michelin": it must know the  
8 specific individuals within that company—which, as of 2021, employed approximately 124,000  
9 people—who are going to be responsible for placing and receiving orders for specific materials  
10 used in specific applications in specific locations. Identifying these individuals out of 124,000  
11 takes time and money. And the same is true for nearly all of Silver Fern's customers.

12         29. Silver Fern maintains this type of customer information, and much more, in at  
13 least two password-protected databases: [REDACTED]. In addition, all of Silver  
14 Fern's data on its internal network is protected by at least two layers of password protection  
15 (dual-factor authentication is in place, and many documents are additionally password  
16 protected), and Silver Fern grants permission to its employees to access specific drives and  
17 directories only on a need-to-know basis.

18         30. Silver Fern's relationships with its customers are a valuable goodwill asset, which  
19 it pays its employees to develop, promote, and protect. Silver Fern entrusts its sales and  
20 marketing teams, including individuals like Defendants Lyons, Kinto, and Holmes, to deal with  
21 customers on its behalf. As an aspect of their job, they were expected to establish rapport and a  
22 relationship of trust with customers and potential customers to enhance Silver Fern's business  
23 and to protect and increase the value of Silver Fern's goodwill.

1           31. Silver Fern's compilation of customer data—including confidential information  
2 regarding customers' products, timing, delivery needs, and much more—now includes a wealth  
3 of details covering business relationships with over [REDACTED] customers.

4 **C. Silver Fern's vendor relationships.**

5           32. Silver Fern is a chemical distributor—it does not manufacture chemicals of its  
6 own. Silver Fern relies on vendors to supply the many chemicals that it sells. Vendor  
7 relationships are therefore essential.

8           33. Establishing a business relationship with a chemical vendor is no small task.  
9 Silver Fern invests a lot of employee time and money to evaluate each of its vendors, and  
10 especially to ensure the quality and unique specifications of the chemicals that each vendor is  
11 supplying. Defendants Lyons, Kinto, and Holmes did not share in these costs as employees of  
12 Silver Fern—those costs were borne by their employer.

13           34. Silver Fern, for example, pays [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16           35. But this database information is just the beginning. Silver Fern must invest  
17 abundant resources to develop its confidential and proprietary compilations of information to  
18 evaluate and initiate business with any prospective vendor. [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 Silver Fern expends extensive resources  
22 to assess and manage the risk inherent in establishing a relationship and working with overseas  
23 vendors in particular. The outcomes of this process—including the wins (and losses) Silver Fern



1 experienced as a result of its expenditure of resources and calculated management of risk—are  
2 part of the proprietary knowledge base of the company.

3 36. From the vendor's perspective, a prospective customer like Silver Fern must also  
4 be vetted and evaluated. Silver Fern's experience, ability to sell adequate volume, credibility in  
5 the industry, and other goodwill have been essential in opening the door to, and establishing,  
6 many valuable vendor relationships.

7 37. As a vendor relationship matures, Silver Fern builds and retains substantial  
8 goodwill through its track record of being a trusted and reliable volume seller of the vendor's  
9 products. Performance over time and financial dependability are key criteria for building that  
10 relationship with a vendor. Vendor relationships are vital and extremely valuable goodwill in the  
11 chemical distribution industry. Silver Fern's goodwill with its vendors is property of the  
12 company.

13 38. [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 39. In addition, an important part of vetting any potential vendor relationship is  
17 becoming acquainted with the potential vendor. Silver Fern's co-founder Sam King, for example,  
18 has personally travelled overseas many times to meet and evaluate new vendors, including  
19 visiting chemical facilities to determine their viability. In many cases, Silver Fern sales staff have  
20 travelled with overseas vendors to make joint technical sales calls in North America.

21 40. Silver Fern does not invest in vendor relationships only at the outset of a potential  
22 relationship—it also pays for the time and expense of having its sales staff, including Defendants  
23

1 Lyons, Kinto, and Holmes, manage and develop those relationships. Without vendors, Silver  
2 Fern cannot do business.

3 41. Moreover, having a relationship with a ready, willing, and able vendor and a  
4 ready, willing, and able customer is frequently only the beginning of a long and labor-intensive  
5 process of vendor and product qualification with a given customer. Establishing the required  
6 nexus between the right vendor and the right customer can take many months or even years to  
7 achieve. This process frequently involves providing samples (such as those taken by Defendant  
8 Holmes from Silver Fern's Seattle office, as set forth below) as well as extensive documentation  
9 to the customer, and can involve layers of technical, regulatory, and quality assessment regarding  
10 the specific product and the specific manufacturer. Silver Fern frequently invests in these long  
11 and demanding qualification processes, only a fraction of which pan out. Overall, the company's  
12 investment in bringing the right manufacturer and product to customers is very substantial.

13 42. Silver Fern also owns its relationships with its vendors as a valuable asset. Silver  
14 Fern entrusts its sales and marketing teams, including individuals like Defendants Lyons, Kinto,  
15 and Holmes, to deal with vendors on its behalf. As an aspect of their job, they were expected to  
16 establish rapport and a relationship of trust with vendors and potential vendors to enhance Silver  
17 Fern's business and to protect and increase the value of Silver Fern's goodwill. These  
18 relationships are a valuable goodwill asset of Silver Fern that it pays its employees to develop,  
19 promote, and protect.

20 43. Silver Fern's list of approved vendors—including confidential information about  
21 those vendors' products, and a wealth of details about their manufacturing, logistics and business  
22 practices—now includes over [REDACTED] product vendors, plus more than [REDACTED] additional vendors in the  
23 areas of transportation, warehousing, and other services.

1           44.     As to the latter, Silver Fern similarly must invest time and money into potential  
2 relationships. Silver Fern, for example, is a member of the National Association of Chemical  
3 Distributors (“NACD”). Silver Fern is verified every three years in NACD’s “Responsible  
4 Distribution” Environmental, Health and Safety management system, which supports Silver Fern  
5 in its ongoing vetting, selection, and evaluation of legitimate and compliant handlers of chemical  
6 products, including transportation and warehousing providers.

7     **D.     As employees of Silver Fern, Defendants Lyons, Kinto, and Holmes leveraged Silver**  
8     **Fern ’s confidential, proprietary, and trade secret information—and agreed to keep**  
9     **it confidential.**

10           45.     Defendant Scott Lyons joined Silver Fern in November 2008. Prior to his  
11 employment with Silver Fern, Defendant Lyons was largely unemployed, except for occasional  
12 restaurant work. He had no chemical industry experience, nor any background or experience in  
13 sales. Silver Fern originally hired Mr. Lyons to assist with its accounts payable, its simple  
14 accounting, and other customer service and secretarial functions. When he shifted into a sales  
15 function, because Defendant Lyons had no prior experience in the chemicals industry, all the  
16 customer accounts he serviced were obtained and cultivated through Silver Fern’s process of  
17 customer acquisition; that is, the customers that Defendant Lyons was responsible for servicing  
18 were obtained solely from Silver Fern’s investment in its customer acquisition process.

19           46.     Furthermore, Defendant Lyons was assigned to maintain relationships with  
20 several customers whose business relationship with Silver Fern were first initiated and managed  
21 by Sam King. In addition, the vendor relationships to which Defendant Lyons was granted access  
22 were not his own. Each resulted from Silver Fern’s investment in vendor vetting and adoption,  
23 were the subject of confidential and trade secret compilations of information, and were the  
valuable goodwill of Silver Fern.

1           47.     When he joined Silver Fern, Defendant Lyons signed a Confidentiality  
2 Agreement, attached to this Complaint as Exhibit 1. He also signed an acknowledgement of  
3 receipt of Silver Fern’s employee handbook, attached to this Complaint as Exhibit 2. In both,  
4 Defendant Lyons agreed to maintain the confidentiality of Silver Fern’s confidential and  
5 proprietary information, including “without limitation, the following: sales plans, business plans,  
6 sales forecasts, product lists, pricing information, the identity of our customers, the identity of  
7 our suppliers, and company financial information.” In addition, he also agreed to keep  
8 confidential “all details of our transactions with customers and suppliers, all details of our sales  
9 and sourcing operations, and all details of our financial operations.”

10           48.     Defendant King Holmes joined Silver Fern in November 2008. When he joined,  
11 Defendant Holmes had no chemical industry background. He had owned a small book-selling  
12 company that set up book fairs in commercial lobbies. Because the “book fair” business was  
13 dying thanks to the rise of online sellers, Defendant Holmes sold his business for a small amount  
14 of money and had no real prospects for a new job. Defendant Holmes, however, was a close  
15 friend of Silver Fern co-founder Sam King, who hired him to start as part of Silver Fern’s sales  
16 team. Because Defendant Holmes had no prior experience in the chemicals industry all the  
17 customer accounts he serviced were obtained and cultivated through Silver Fern’s process of  
18 customer acquisition; that is, the customers Defendant Holmes serviced were customers he  
19 obtained from Silver Fern’s investment in its customer acquisition process.

20           49.     Furthermore, Defendant Holmes was assigned to maintain relationships with  
21 several customers whose business relationship with Silver Fern were first initiated and managed  
22 by Sam King. In addition, all vendor relationships to which Silver Fern granted Defendant  
23 Holmes access resulted from Silver Fern’s investment in vendor vetting and adoption, were the

1 subject of confidential and trade secret compilations of information, and were the valuable  
2 goodwill of Silver Fern.

3 50. When he joined Silver Fern, Defendant Holmes signed a Confidentiality  
4 Agreement, attached to this Complaint as Exhibit 3. He also signed an acknowledgement of  
5 receipt of Silver Fern's employee handbook, attached to this Complaint as Exhibit 4. In both,  
6 Defendant Holmes agreed to maintain the confidentiality of Silver Fern's confidential and  
7 proprietary information, including "without limitation, the following: sales plans, business plans,  
8 sales forecasts, product lists, pricing information, the identity of our customers, the identity of  
9 our suppliers, and company financial information." In addition, he also agreed to keep  
10 confidential "all details of our transactions with customers and suppliers, all details of our sales  
11 and sourcing operations, and all details of our financial operations."

12 51. Defendant Troy Kinto joined Silver Fern in March 2014. Immediately prior to his  
13 employment with Silver Fern, Defendant Kinto worked for another chemical distributor. Though  
14 he had experience in the industry, Defendant Kinto's business growth was based on active  
15 prospects that he received from, and developed with the support of, Silver Fern. Indeed, the vast  
16 majority of the customer accounts he serviced were obtained and cultivated through Silver Fern's  
17 process of customer acquisition; that is, the customers that Defendant Kinto was responsible for  
18 servicing were obtained primarily from Silver Fern's investment in its customer acquisition  
19 process. [REDACTED]

20 [REDACTED] Defendant Kinto's highest-ranking customer in 2022, [REDACTED], was an account  
21 that Sam King brought in and established before he handed it off to Defendant Kinto.

22 52. In addition, virtually all vendor relationships to which Defendant Kinto was  
23 granted access resulted from Silver Fern's investment in vendor vetting and adoption, were the

1 subject of confidential and trade secret compilations of information, and were the valuable  
2 goodwill of Silver Fern.

3 53. When he joined Silver Fern, Defendant Kinto signed a Confidentiality  
4 Agreement, attached to this Complaint as Exhibit 5. He also signed an acknowledgement of  
5 receipt of Silver Fern's employee handbook, attached to this Complaint as Exhibit 6. In both,  
6 Defendant Kinto agreed to maintain the confidentiality of Silver Fern's confidential and  
7 proprietary information.

8 54. Defendants Lyons, Kinto, and Holmes joined Silver Fern in, or later transitioned  
9 to, sales roles. As such, their compensation was largely commission-based.

10 55. But neither Defendant Lyons nor Defendant Holmes joined Silver Fern with an  
11 established customer base. That is, neither of them brought existing customers to Silver Fern.  
12 While Defendant Kinto brought a handful of customers to Silver Fern, the vast majority of the  
13 Silver Fern customers he serviced were provided to him as active prospects that Silver Fern  
14 produced. Defendants Lyons, Kinto, and Holmes relied to a great degree on active prospects  
15 generated and paid for by Silver Fern, as well as Silver Fern's existing customer relationships,  
16 when establishing and maintaining the customer relationships from which they were paid  
17 commissions. Indeed, approximately half of the customers that Defendant Lyons was responsible  
18 for servicing prior to his departure were customers that were brought to Silver Fern directly by  
19 Sam King, its co-founder.

20 56. [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED].

1           57. Defendants Lyons, Kinto, and Holmes profited handsomely from the investment  
2 Silver Fern made in its trade secret and confidential information, its customer and vendor  
3 relationships, and its other goodwill.

4           58. Defendant Lyons' last three years of salary at Silver Fern was as follows:

5           [REDACTED]  
6           [REDACTED]  
7           [REDACTED]

8           59. Defendant Kinto's last three years of salary at Silver Fern was as follows:

9           [REDACTED]  
10           [REDACTED]  
11           [REDACTED]

12           60. Defendant Holmes last three years of salary at Silver Fern was as follows:

13           [REDACTED]  
14           [REDACTED]  
15           [REDACTED]

16           61. As a result of their employment, Defendants Lyons, Kinto, and Holmes had  
17 access to the following databases and information, which Silver Fern maintains as confidential  
18 through multiple layers of access and password restrictions:

19           [REDACTED]  
20           [REDACTED]  
21           [REDACTED]  
22           [REDACTED]  
23           [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]



1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
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10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 62. Defendants Lyons, Kinto, and Holmes had access to all this confidential and trade  
21 secret information by virtue of their employment with Silver Fern.

22 63. This information is not generally known, is not known to anyone outside Silver  
23 Fern, and Silver Fern takes steps to keep it confidential. [REDACTED]

1 [REDACTED] are  
2 accessible only to Silver Fern employees with a business need to know it. Further, all employees  
3 are required to sign an acknowledgment of Silver Fern's confidentiality requirements as part of  
4 the Employee Handbook as a condition of employment. In addition, all employees are required  
5 to sign a Confidentiality Agreement as a condition of employment. The confidentiality  
6 requirements of Silver Fern's employee policies, as well as the Confidentiality Agreement signed  
7 by all Silver Fern employees, prohibit disclosure of Silver Fern's trade secrets and other  
8 confidential and proprietary information.

9 64. The information itself derives independent economic value from not being  
10 generally known. [REDACTED]

11 [REDACTED]  
12 [REDACTED]. This information is  
13 invaluable for businesses in the chemical industry, and it derives its value from its  
14 confidentiality.

15 65. Silver Fern has invested millions of dollars in collecting, analyzing, and storing  
16 this information for its sole economic benefit. To get this information by legitimate means would  
17 take many years, tens of thousands of employee hours, and millions of dollars.

18 66. As set forth above, Silver Fern's relationships with its customers and vendors are  
19 a significant goodwill asset of its business. The company entrusted Defendants Lyons, Kinto, and  
20 Holmes with its trade secrets related to those relationships, as well as its confidential and  
21 proprietary information, with the understanding and contractual obligation that they would  
22 always keep the information confidential, use it solely for Silver Fern's business purposes, and  
23 not use it as a basis for personal gain.

**E. Defendants Lyons, Kinto, and Holmes engaged in private discussions with Defendants Ambyth and Morgan while still Silver Fern employees.**

67. On information and belief, Defendants Lyons, Kinto, and Holmes were conspiring with Defendants Ambyth and Morgan as early as January 2023 for Defendants Lyons, Kinto, and Holmes to convert Silver Fern’s business opportunities for their new venture with Ambyth.

68. While Silver Fern and Defendant Ambyth are competitors in the chemical distribution industry, they also sometimes do business with each other—meaning they each place orders with the other for chemicals they need for resale to customers. Prior to Defendants Lyons, Kinto, and Holmes’ starting as Senior Partners at Defendant Ambyth, Defendant Ambyth was a very small company run by Defendant Morgan.

69. As such, and as part of Silver Fern’s ongoing business relationship with Defendant Ambyth, Defendants Lyons, Kinto, and Holmes have known Defendants Morgan and Ambyth for years.

70. On January 18, 2023, Defendant Holmes sent an instant message to Defendant Kinto on Microsoft Teams, a platform Silver Fern provided for their use. The message read: “For sure. Maybe this weekend. I’m gonna have beers w/ Row tomorrow night.” On information and belief, “Row” is Defendant Rowland Morgan. Three weeks later, Defendant Holmes returned to the Teams chat, searched out that single message and deleted it. On information and belief, Defendant Holmes deleted that single message so that there would be no evidence of his collusion with Defendants Morgan and Ambyth.

71. During a regularly scheduled weekly Sales Meeting on February 22, 2023, Sam King made a detailed presentation regarding [REDACTED]

[REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 72. Also on February 22, 2023, Mr. King sent a follow-up email about the meeting to  
8 Silver Fern's sales team. Defendant Holmes not only sent the email to his wife—a former Silver  
9 Fern customer service employee—he also BCC'd Defendant Morgan on the email. There was no  
10 legitimate business reason for Defendant Holmes to send the email to Defendant Morgan.

11 Defendants Kinto and Lyons would each go on to forward the same email to his personal email  
12 address, tkinto14@gmail.com and scottlyons25@gmail.com, respectively, in April 2023.

13 73. In March 2023, Defendants Lyons, Kinto, and Holmes attended a sales conference  
14 with another Silver Fern employee, Esther Kannenberg. Because Ms. Kannenberg was being  
15 trained for her new position as Supply Chain and Sourcing Manager, Defendant Kinto organized  
16 her schedule, and she attended the majority of meetings at the sales conference with him. She  
17 was also invited to attend a customer dinner with Defendants Lyons, Kinto, and Holmes.

18 74. Defendant Lyons, however, had arranged for a dinner with Defendants Morgan  
19 and Ambyth to take place on or about Saturday, March 25, with Defendants Kinto and Holmes.  
20 Though she had been invited to attend the other meetings and customer dinners, Defendant  
21 Lyons made sure to tell Ms. Kannenberg that she was not welcome at the dinner with Defendants  
22 Morgan and Ambyth. In a phone call on or about March 22, Defendant Lyons informed Ms.  
23

1 Kannenberg that—although he had made the dinner reservation—there was not enough room at  
2 the table for her with Defendants.

3 75. On March 25, the day of the dinner, Defendant Lyons again informed Ms.  
4 Kannenberg that there was no room for her at the dinner that night, and that it would be  
5 unnecessary for her to attend because Defendants just wanted to “hang with the boys and shoot  
6 some shit.”

7 76. Defendants thus had dinner on March 25 and deliberately excluded another Silver  
8 Fern employee—an employee whom Silver Fern had sponsored to attend this conference at  
9 considerable expense and for the express purpose of training, mentoring, and exposure to  
10 meetings with Silver Fern’s business associates. If Defendants Lyons, Kinto, and Holmes had  
11 been performing their job duties for Silver Fern, they would have introduced Ms. Kannenberg to  
12 Defendant Morgan during this meal, and all would have cultivated their relationship with  
13 Defendant Ambyth, a Silver Fern vendor, for the benefit of Silver Fern.

14 77. On information and belief, and given Defendants Lyons, Kinto, and Holmes’  
15 departure from Silver Fern and induction into Ambyth as “Senior Partners” just three weeks  
16 later, Defendants discussed and planned the departures of Lyons, Kinto, and Holmes at this  
17 dinner. On information and belief, they also discussed their planned conversion of Silver Fern’s  
18 confidential, proprietary, and trade secret information. Indeed, Defendants Kinto and Holmes  
19 began requesting their employment records from Silver Fern within the week following this  
20 meeting.

**F. Defendants Lyons, Kinto, and Holmes appropriated and deleted Silver Fern’s confidential and trade secret information for months—and breached their duties of loyalty.**

78. Defendants Lyons, Kinto, and Holmes did not wake up on the morning of April 17, 2023, and decide to join a new company as Senior Partners. Instead, they planned for months. But more than planning, they began—while still employed with Silver Fern—to start appropriating Silver Fern’s business opportunities, including diverting customer orders to Ambyth and potential vendors, for their own future gain.

79. Defendant Holmes began as early as February 2023. [REDACTED]

[REDACTED] Though he had no legitimate business reason to do so, Defendant Holmes BCC’d his wife, Helen Holmes, on the email.

80. That same day, February 15, Defendant Holmes sent an email from his Silver Fern email address to established Silver Fern customer [REDACTED]; the customer noted that he would “contact [Defendant Holmes] most likely in May or June” on this—i.e., past Defendant Holmes’ departure date from Silver Fern. Defendant Holmes responded that he would check in with the customer around that time frame, and BCC’d his personal email (kingkholmes@gmail.com) on the email. He had no legitimate business reason to do so.

81. Between March 7 and March 9, Defendant Kinto steered yet another business opportunity away from Silver Fern and to Defendant Ambyth. In response to a customer request for [REDACTED]

1 [REDACTED]. When the customer responded that she would “let [him]  
2 know,” Defendant Kinto emailed the customer and asked her to “Please give me a call on this.  
3 . . . Call my cell phone number.” The customer responded that she was in a meeting, but would  
4 “give [him] a call shortly.” Just over an hour later, Defendant Kinto sent a new email to the  
5 customer, this time cc’ing Defendant Morgan, stating that “Rowland Morgan, owner of Ambyth  
6 Chemical, can help you with the [REDACTED]

7 82. On April 3, 2023, Defendant Holmes changed his email of record with ADP,  
8 Silver Fern’s payroll services provider, from his Silver Fern email address to his personal gmail  
9 address.

10 83. The same day, April 3, Defendant Holmes BCC’d his wife, from his Silver Fern  
11 email address, on an email string with two industry contacts. Defendant Holmes claimed that he  
12 was asking for a “friend looking for” the contacts’ information about [REDACTED]  
13 [REDACTED] and other items. There was no legitimate business reason for Defendant Holmes to  
14 BCC his wife on the email chain.

15 84. Though he had no legitimate business reason to do so, Defendant Holmes also  
16 BCC’d his wife, again from his Silver Fern email address, on an email in which he asked a  
17 contact to confirm pricing information on those same products.

18 85. The same day, April 3, Defendant Holmes took a screenshot immediately after  
19 opening two files related to his biggest products. He did the same thing on April 5. On  
20 information and belief, Defendant Holmes took these screenshots so that there would be no  
21 record that he had sent the file information to himself.

22 86. [REDACTED]  
23 [REDACTED]



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]

5 87. Defendant Holmes forwarded [REDACTED] email to his personal email and to his  
6 wife. At no point did he inform Silver Fern of the new potential product.

7 88. The same day, April 6, Defendant Holmes sent an email to yet another Silver Fern  
8 customer regarding his ability to fulfill its purchase order. Though the customer was inquiring  
9 how to get set up in Silver Fern's system (via a credit application), Defendant Holmes gave the  
10 customer the option to submit the purchase order to a "third part[y]," i.e., a distributor other than  
11 his employer Silver Fern, who is "a little less formal on setting up accounts." On information and  
12 belief, that third party was Defendant Ambyth. Defendant Holmes similarly wrote: "OR, you can  
13 send a PO to another company and we can run it through them." On information and belief, that  
14 third party was Defendant Ambyth.

15 89. As of April 11, Defendant Holmes began informing multiple established Silver  
16 Fern customers to "call [him] on his cell" before they submitted any purchase orders. Defendant  
17 Holmes was supposed to be on vacation the week of April 10–14 (the week before his  
18 resignation)—or at least that is what he informed Silver Fern. During that week, Defendant  
19 Holmes sent the following emails—with the following excerpts—from his Silver Fern email to  
20 Silver Fern customers who, on information and belief, were looking to place orders with Silver  
21 Fern:

22 a. April 11, 2023 at 1:28 p.m.: "Please call my cell Next week"  
23

- b. April 11, 2023 at 1:44 p.m.: “Can you call me next week? Please call me on my cell.”
- c. April 11, 2023 at 3:39 p.m.: “Call me before you send any purchase orders”
- d. April 11, 2023 at 4:59 p.m.: In response to a statement that someone had tried his business line, “Please CALL MY CELL on Monday”
- e. April 11, 2023 at 5:04 p.m.: “Call my Cell on Monday”
- f. April 12, 2023 at 4:18 p.m.: “Please call my cell.”
- g. April 13, 2023 at 11:24 a.m.: “PLEASE CALL MY CELL!!”
- h. April 14, 2023 at 9:17 a.m.: “Call me on my cell Monday, if you need”
- i. April 14, 2023 at 9:55 a.m.: “**Can you please call my Cell Monday?**”
- j. April 14, 2023 at 10:09 a.m.: “please call me.”
- k. April 14, 2023 at 11:08 a.m.: “please call my cell”
- l. April 14, 2023 at 1:22 p.m.: “Can you check back on Monday?”
- m. April 14, 2023 at 1:29 p.m.: “Call my cell next week.” Defendant Holmes BCC’d his wife, Helen Holmes, on the email
- n. April 14, 2023 at 1:29 p.m.: “Can you call me on my cell next week?”; Defendant Holmes later told this same customer to include his personal email account on their communications going forward
- o. April 14, 2023 at 1:33 p.m.: “Call me Monday on my cell”
- p. April 14, 2023 at 3:29 p.m.: “call my cell next week”
- q. April 14, 2023 at 7:00 p.m.: In response to a purchase order from an existing customer, Defendant Holmes wrote “call me on my cell next week.”

1           r. April 15, 2023 at 6:33 p.m.: “can you call my cell on Monday? . . . We have some  
2           traction on the pork meal, but I may run this through a different Avenue.”

3           s. April 15, 2023 at 8:18 p.m.: “Please call my cell”

4           t. April 15, 2023 at 9:29 p.m.: “Call my cell”

5           u. April 16, 2023 at 9:38 a.m.: “please call my cell on Monday.”

6           v. April 16, 2023 at 6:31 p.m.: “Please call my cell tomorrow”

7           w. April 16, 2023 at 6:40 p.m.: “Call my cell tomorrow”

8           90. Also on April 12, 2023, Defendant Holmes told one of Silver Fern’s key vendors,  
9           ██████████, to “call my cell on Monday.”

10           91. Besides trying to keep email traffic—and thus a paper trail—light, it appears that  
11           Defendants attempted to destroy significant amounts of evidence related to their wrongdoing  
12           before they left Silver Fern.

13           92. Between January 17 and April 17, Defendant Holmes “permanently deleted”  
14           10,908 items in his Outlook mailbox. Of those, he permanently deleted 4,485 on April 14  
15           alone—a day he was purportedly on vacation. April 14 was Defendant Holmes’ last day of  
16           employment with Silver Fern—and the number of emails he attempted to “permanently delete”  
17           that day were more than the total number of emails he attempted to permanently delete in the  
18           entire preceding month.

19           93. Defendants Lyons and Kinto also attempted to permanently delete many items  
20           from their Silver Fern email accounts. Kinto “permanently deleted” 2,544 items from his  
21           Outlook mailbox from January 17 through April 14, deleting 1,168 items on April 14 alone—a  
22           day he was also purportedly on vacation. April 14 was Defendant Kinto’s last full day of  
23

1 employment with Silver Fern—and the number of emails he attempted to “permanently delete”  
2 that day were 84% of all the messages he deleted in the preceding three months.

3 94. Defendant Lyons “permanently deleted” 2,281 items from his Outlook mailbox  
4 from January 17 through April 17, deleting 1,476 items on April 14 alone. April 14 was  
5 Defendant Lyons’ last full day of employment with Silver Fern—and the number of emails he  
6 attempted to “permanently delete” that day was over two-thirds of all the messages he deleted in  
7 the preceding three months.

8 95. None of the Defendants had any legitimate business purpose for attempting to  
9 permanently delete anything in his Silver Fern email account. In fact, Silver Fern specifically  
10 advises its employees—and had done so multiple times during Defendant Lyons’, Kinto’s, and  
11 Holmes’ employment—that Silver Fern email was company property and should not be  
12 permanently deleted.

13 96. As of this pleading, Silver Fern has recovered 15,612 of the Defendants’  
14 “permanently deleted” items for the period of approximately December 31, 2022 to April 16,  
15 2023. Unbeknownst to Defendants Lyons, Kinto, and Holmes, their Microsoft 365 accounts were  
16 each on a litigation hold for that period, meaning that permanently deleted items were not, in  
17 fact, permanently deleted. On information and belief, Defendants Lyons, Kinto, and Holmes  
18 intentionally attempted to permanently delete emails that they knew would evidence their  
19 unlawful and tortious conduct as described herein. On information and belief, Defendants Lyons,  
20 Kinto, and Holmes also intentionally attempted to permanently delete emails in an attempt to  
21 deprive Silver Fern of information related to ongoing business opportunities that Defendants  
22 planned to exploit for their own benefit.

1 **G. Defendants Lyons, Kinto, and Holmes accessed, took, and deleted Silver Fern’s**  
 2 **confidential, proprietary, and trade secret information in the days before and after**  
 3 **they ended their employment.**

4 97. On the morning of Monday, April 17, between 6:30 and 6:31 a.m. PDT,  
 5 Defendants Lyons, Kinto, and Holmes sent emails to Sam and Lisa King resigning from their  
 6 positions with Silver Fern. Both Defendant Lyons and Defendant Kinto wrote that their  
 7 resignations were effective as of “Friday, April 14.”

8 98. Then, between approximately 7 and 7:30 a.m., Defendants Kinto and Holmes sent  
 9 emails from their personal email addresses to Silver Fern’s “staff\_silverfernchemical.com”  
 10 listserv. They each notified their colleagues they were no longer employed by Silver Fern.  
 11 Instead, each was joining Defendant Ambyth Chemical as a “Senior Partner.” Defendant Lyons  
 12 sent a virtually identical job change announcement approximately 33 minutes before his  
 13 resignation from Silver Fern.

14 99. Defendants Lyons, Kinto, and Holmes did not send those emails just to Silver  
 15 Fern’s staff, however. Though they were announcing their departure from Silver Fern, on  
 16 information and belief, Defendants Lyons, Kinto, and Holmes each BCC’d most—if not all—of  
 17 their Silver Fern customer and vendor contacts and included email signatures with their Ambyth  
 18 Chemical contact information, thus using Silver Fern’s confidential customer and vendor contact  
 19 information to promote themselves as Senior Partners of Ambyth.

20 100. Just a few days before, on April 14—what he told Silver Fern and Silver Fern’s  
 21 customers was his last day—Defendant Lyons was emailing with one of Silver Fern’s vendors,

22 [REDACTED], regarding [REDACTED]

23 [REDACTED] Though he was planning to resign, Defendant Lyons responded that he would “look

1 this over and be in touch.” Defendant Lyons, in response to Sam King emailing him an active  
2 prospect, similarly replied “I’ll take a look.”

3 101. Late in the afternoon the same day, Defendant Kinto emailed an existing Silver  
4 Fern customer that he could not get the customer a particular product at that time, but could in  
5 late May or early June. He encouraged the customer to “Call my cell with any questions or  
6 concerns.”

7 102. The next day, on Saturday, April 15—the day after his final day of employment  
8 with Silver Fern—Defendant Lyons logged into his Silver Fern desktop PC, which he had used  
9 in his home office, and accessed Silver Fern’s password-protected [REDACTED] application to  
10 review confidential information related to his former customer accounts, including sales  
11 summaries, the highest-ranking customer accounts he had formerly serviced for Silver Fern (and  
12 the value of the sales to those customers), the highest-ranking products he had sold for Silver  
13 Fern, recent orders (showing customers active in the preceding six months), customer  
14 information (including customer contacts), and a list of Silver Fern’s suppliers. Defendant Lyons  
15 had to get through three layers of password protection in order to access the [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 103. On Sunday, April 16—two days after his last day with Silver Fern—Defendant  
19 Lyons again went through three layers of password protection on a Silver Fern PC to access  
20 [REDACTED] application to review confidential information related to sales

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

[REDACTED]

1 summaries regarding his former customer accounts. In total, Defendant Lyons accessed 89  
2 separate [REDACTED] records in the two days after his last day of employment with Silver Fern.  
3 This access included sales agent summaries, product information, supplier information, and  
4 multiple pages of Silver Fern customer information.

5 104. On Saturday, April 15 and Sunday, April 16—the two days following his last day  
6 with Silver Fern—Defendant Holmes accessed Silver Fern’s password-protected [REDACTED]  
7 application each day to review confidential information related to his former customer accounts,  
8 including sales summaries, the highest-ranking customers (and the value of the sales to those  
9 customers) he had formerly serviced for Silver Fern, the highest ranking products he had sold for  
10 Silver Fern, and recent orders. In total, Defendant Holmes accessed 63 separate [REDACTED]  
11 records in the two days after his last day of employment with Silver Fern. This access included  
12 sales agent summaries, an unknown chart, and multiple pages of Silver Fern customer lists.  
13 Defendant Holmes used a [REDACTED]

14 105. On Sunday, April 16, at 6:30 p.m.—just twelve hours before he sent an email  
15 resigning from Silver Fern—Defendant Holmes was in Silver Fern’s Seattle office. He had no  
16 regular business in the office on the weekends, and he certainly had no legitimate business  
17 reason to be in Silver Fern’s office on this Sunday, two days after his last day at Silver Fern.

18 106. Despite having no business in the office that day—and even though he intended to  
19 send a resignation email just twelve hours later—Defendant Holmes went through two layers of  
20 password protection (dual-factor authentication) to log into his former Silver Fern desktop PC  
21 and began accessing confidential customer information. Specifically, he accessed files in a folder  
22 called [REDACTED]  
23 [REDACTED]

1 107. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED] gear

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 108. Each of the files that Defendant Holmes accessed contains Silver Fern's

17 confidential and proprietary information, including but not limited to [REDACTED]

18 [REDACTED]

19 [REDACTED] This information includes confidential, non-

20 public information entrusted to Silver Fern by its customer, [REDACTED] While Silver Fern expects

21 customer information to be maintained [REDACTED]

22 [REDACTED]

23 [REDACTED]



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 109. That night, before he left the office for the final time, Defendant Holmes took  
7 Silver Fern product samples and notebooks with him. Neither the product samples nor the  
8 notebooks belong to him.

9 110. On Monday, April 17—three days after his last day with Silver Fern, and the day  
10 he sent his resignation email—Defendant Kinto logged into his Silver Fern desktop PC, which he  
11 had used in his home office, and accessed Silver Fern’s password-protected [REDACTED]  
12 application to review confidential information related to his former customer accounts, including  
13 sales summaries, the highest-ranking customer accounts he had formerly serviced (and the value  
14 of the sales to those customers) and the highest-ranking products he had sold for Silver Fern  
15 during the preceding 12 months. He forwarded the information to his personal email address at  
16 8:17 a.m. CDT. [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 111. Defendant Kinto kept his laptop for two weeks following his resignation from  
20 Silver Fern. Silver Fern is still in the process of discerning what confidential information  
21 Defendant Kinto accessed or attempted to permanently delete in that two week period.

22 112. Defendants Lyons, Kinto, and Holmes each took copious handwritten notes  
23 regarding their servicing of their customer and vendor accounts while at Silver Fern. On

1 information and belief, those notebooks contain confidential and trade secret information  
2 belonging to Silver Fern. Defendants Lyons, Kinto, and Holmes have not returned any of these  
3 notes to Silver Fern.

4 **H. Defendants' conspiracy has had its intended effect: They have appropriated Silver**  
5 **Fern's confidential, proprietary, and trade secret information for their own**  
6 **economic benefit—and continue to do so.**

7 113. Using Silver Fern's trade secrets and other confidential proprietary information  
8 they misappropriated, Defendants Lyons, Kinto, and Holmes have already begun contacting  
9 Silver Fern customers and vendors in an attempt to divert their business from Silver Fern to  
10 Defendant Ambyth.

11 114. On April 19, 2023, just two days after Defendant Kinto sent his email resigning  
12 from Silver Fern, a current Silver Fern customer—[REDACTED]  
13 [REDACTED]—mistakenly sent an email payment notice to Silver Fern that was  
14 meant for Defendant Ambyth.

15 115. [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 116. [REDACTED]  
20 [REDACTED]

21 117. Just two weeks later, however—and two days after Defendant Kinto's email  
22 resignation—[REDACTED]  
23 [REDACTED]

1 [REDACTED] sent the payment notice to Defendant Kinto's former Silver Fern email address, and cc'd  
2 Defendant Morgan of Ambyth.

3 118. It is apparent that Defendant Kinto was sending other business to Ambyth prior to  
4 his departure from Silver Fern. [REDACTED]

5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 119. A couple weeks later, on May 2, 2023, [REDACTED] sent an additional three  
11 purchase orders to Defendant Kinto's former Silver Fern email address, again meant for  
12 Defendant Ambyth. The purchase orders totaled \$145,792.48. The purchase orders were for  
13 [REDACTED], a category of materials Silver Fern has been selling to  
14 [REDACTED] business for several years.

15 120. On May 3, yet another misdirected email came to Defendant Kinto's Silver Fern  
16 email address, again meant for Defendant Ambyth. [REDACTED]

17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED] The sender also informs his team [REDACTED] that Ambyth will be taking on all  
20 of the business that had once gone to Silver Fern: "As advised, Troy is now with Ambyth, who  
21 will basically take over all of Silver Fern's volume once the process is complete."

22 121. On May 5, yet another misdirected email came to Defendant Kinto's Silver Fern  
23 email address, this time meant for Defendant Kinto. The email was from a representative of [REDACTED]

1 [REDACTED]  
2 [REDACTED]. The email included “a few options” for a logo that Defendant Kinto could use.

3 [REDACTED]  
4 [REDACTED].  
5 122. [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 123. Silver Fern thus has a reasonable belief that Defendants are using Silver Fern’s  
10 confidential and proprietary information for their own benefit, to the great prejudice of Silver  
11 Fern, thereby causing irreparable harm.

12 124. Indeed, Silver Fern has lost not only profitable customer relationships—and  
13 Defendants are threatening to unlawfully take more—but Silver Fern has lost the investment that  
14 it made in identifying and building those customer relationships. Silver Fern has, of course,  
15 suffered and will continue to suffer additional harm. That harm includes, but is in no way limited  
16 to, the fact that Silver Fern will now need to sell significant amounts of product at a loss.  
17 Because Silver Fern had designated certain products to sell to certain customers, and those  
18 customers are now buying product from Defendant Ambyth, Silver Fern will need to liquidate  
19 inventory at a significant loss.

20 125. On information and belief, Defendant Ambyth, by and through its principal  
21 Defendant Morgan, was aware of the confidentiality agreements between Defendants Lyons,  
22 Kinto, and Holmes, as Defendants Kinto and Holmes had each requested (and received) copies  
23 of those agreements in March and April 2023. On information and belief, Defendants Ambyth

1 and Morgan nevertheless encouraged Defendants Lyons, Kinto, and Holmes to breach—and  
 2 facilitated their breach of—those confidentiality agreements for Defendants’ own monetary  
 3 benefit.

4 **I. Defendants’ conduct was willful and malicious.**

5 126. In departing Silver Fern, Defendants Lyons, Kinto, and Holmes conspired  
 6 together to collect Silver Fern’s trade secret and confidential information and depart Silver Fern  
 7 at the same time and without notice.

8 127. Defendants Lyons, Kinto, and Holmes acted in such a manner as to intentionally  
 9 maximize the harm they were inflicting on Silver Fern by, among other things, resigning with no  
 10 notice, thereby depriving Silver Fern of the opportunity to inform its customers of the transition  
 11 and otherwise prepare for the loss of three members of its sales team.

12 128. Defendants Lyons, Kinto, and Holmes also acted in such a manner as to  
 13 intentionally maximize the harm they were inflicting on Silver Fern by, among other things,  
 14 permanently deleting items from their email accounts, thereby attempting to deprive Silver Fern  
 15 of valuable and indispensable business records, and the opportunity to examine what they had  
 16 done and what communications they had prior to their departure.

17 129. Defendants Lyons, Kinto, and Holmes’ conduct was willful and malicious.

18 **CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT, 18 U.S.C. § 1030**  
**(Against Defendants Lyons, Kinto, and Holmes)**

21 130. Silver Fern incorporates by reference the foregoing paragraphs as if fully set forth  
 22 herein.

1           131. Defendants Lyons, Kinto, and Holmes knowingly and with the intent to defraud  
2 exceeded their authorized access to Silver Fern's computers, and by means of such conduct  
3 furthered their intended fraud and obtained something of value, i.e., Silver Fern's confidential,  
4 proprietary, and trade secret information, in violation of 18 U.S.C. § 1030(a)(4).

5           132. The value of what Defendants Lyons, Kinto, and Holmes obtained exceeded  
6 \$5,000 in a one-year period.

7           133. Silver Fern suffered damage and loss by reason of Defendants Lyons, Kinto, and  
8 Holmes' exceeding of their authorized access to Silver Fern's computers. Silver Fern is entitled  
9 to compensatory damages, as well as injunctive relief, including but not limited to the cost of  
10 responding to Defendants Lyons, Kinto, and Holmes' offense, cost incurred, and other  
11 consequential damages.

12                                   **SECOND CAUSE OF ACTION**  
13                                   **BREACH OF CONTRACT**  
                                  **(Against Defendants Lyons, Kinto, and Holmes)**

14           134. Silver Fern incorporates by reference the foregoing paragraphs as if fully set forth  
15 herein.

16           135. Silver Fern had valid and binding contracts with Defendants Lyons, Kinto, and  
17 Holmes in the form of their respective confidentiality agreements.

18           136. Silver Fern performed in accordance with all material obligations, terms, and  
19 conditions of the confidentiality agreements.

20           137. Defendants Lyons, Kinto, and Holmes breached their confidentiality agreements  
21 by, among other things, using and disclosing confidential, proprietary, or trade secret information  
22 for purposes other than the performance of their job duties with Silver Fern and for their own  
23 economic benefit.

1           138. Defendants' breach of their respective confidentiality agreements, including by  
2 disclosing Silver Fern's confidential, proprietary, and trade secret information, damaged Silver  
3 Fern in an amount to be proven at trial.

4           139. Because Defendants threaten Silver Fern's customer relationships and associated  
5 goodwill, Silver Fern has suffered and will continue to suffer irreparable harm. Silver Fern is  
6 thus entitled to temporary, preliminary, and permanent injunctive relief to halt Defendants'  
7 further breaches of their respective confidentiality agreements.

8                                   **THIRD CAUSE OF ACTION**  
9                                   **BREACH OF DUTIES OF LOYALTY AND CONFIDENTIALITY**  
                                  **(Against Defendants Lyons, Kinto, and Holmes)**

10           140. Silver Fern incorporates by reference the foregoing paragraphs as if fully set forth  
11 herein.

12           141. As former employees of Silver Fern with access to Silver Fern's trade secrets and  
13 other confidential and proprietary information, Defendants Lyons, Kinto, and Holmes had a  
14 confidential relationship with Silver Fern and a duty to maintain the secrecy of—and to protect  
15 from use or disclosure—its confidential information.

16           142. Defendants Lyons, Kinto, and Holmes also had a duty not to misappropriate for  
17 themselves the goodwill, customer relationships, and vendor relationships that they were charged  
18 with maintaining and developing on Silver Fern's behalf.

19           143. Defendants Lyons, Kinto, and Holmes owed Silver Fern a duty of loyalty during  
20 the period of their employment.

21           144. Defendants Lyons, Kinto, and Holmes breached their duties of loyalty and  
22 confidentiality, and continue to breach their duty of confidentiality, by taking, using, and  
23 disclosing Silver Fern's trade secrets and other confidential and proprietary information, using

1 such information on behalf of themselves and Defendant Ambyth, and misappropriating Silver  
2 Fern's valuable customer relationships and goodwill.

3 145. As a result of these breaches, Silver Fern has lost and will continue to lose the  
4 value of its trade secrets and other confidential and proprietary information that Defendants  
5 Lyons, Kinto, and Holmes possess, as well as the value of the goodwill, economic relationships,  
6 and business opportunities that Silver Fern would have enjoyed but for Defendants Lyons, Kinto,  
7 and Holmes' breaches of their duties to Silver Fern.

8 146. Silver Fern has been and will continue to be irreparably injured, and Defendants  
9 will be unjustly enriched, if Defendants are not enjoined from using and disclosing Silver Fern's  
10 confidential and proprietary information for their own gain.

11 **FOURTH CAUSE OF ACTION**  
12 **BREACH OF THE DEFEND TRADE SECRETS ACT, 18 U.S.C. § 1836 ET SEQ.**  
13 **(Against All Defendants)**

14 147. Silver Fern incorporates by reference the foregoing paragraphs as if fully set forth  
15 herein.

16 148. Silver Fern's trade secrets relate to products and services used, sold, shipped, and  
17 ordered in—or intended to be used, sold, shipped, or ordered in—interstate commerce.

18 149. Silver Fern took reasonable measures to keep its trade secrets as described above  
19 secret, including, without limitation, requiring confidentiality agreements of all employees.  
20 Silver Fern also took steps to ensure that its information was subject to restrictions on use and  
21 dissemination, including by physically restricting access to its offices and password-protecting  
22 electronic access to its trade secrets.

23 150. Silver Fern's trade secrets derive independent economic value from being not  
generally known and not being readily ascertainable through proper means to another person



1 who is able to obtain economic value from the disclosure or use of the information. For example,  
2 Silver Fern spent years of time and substantial resources (including employee time and  
3 compensation; the collection, storage, and analysis of customer information described above; and  
4 other time and money) to identify and develop vendor relationships described above, among  
5 other things. For Defendants to have created and maintained the same data, information,  
6 relationships with customers, relationships with vendors, and contacts, would have taken tens of  
7 thousands of employee hours and many years of development. For these same reasons, Silver  
8 Fern's trade secrets are novel—i.e., they are not readily ascertainable from another source.

9 151. Defendants Lyons, Kinto, and Holmes knew or had reason to know that Silver  
10 Fern's trade secrets were improperly obtained, particularly because each was aware during his  
11 employment with Silver Fern that he had an ongoing duty to maintain the confidentiality of  
12 Silver Fern's trade secrets even following his departure from Silver Fern. Their use of Silver  
13 Fern's trade secrets to further Defendant Ambyth's conversion of Silver Fern's business  
14 relationships contravened these ongoing obligations of confidentiality, and they constitute  
15 acquisition, distribution, and use of Silver Fern's trade secrets by improper means.

16 152. Defendants have, in record time, converted Silver Fern's business relationships,  
17 including its relationships with its largest customers and vendors. As such, Silver Fern's trade  
18 secrets have been of immense value to Defendants in their efforts to quickly realize business  
19 opportunities for which they did not independently invest time or resources. Defendants  
20 misappropriated Silver Fern's trade secrets for that reason, and they have also realized economic  
21 value from that misappropriation.

22 153. In violation of Silver Fern's rights under the Defend Trade Secrets Act, 18 U.S.C.  
23 § 1836, Defendants misappropriated Silver Fern's trade secrets in an improper and unlawful

1 manner as alleged herein. Defendants Lyons, Kinto, and Holmes misappropriated Silver Fern's  
2 trade secrets under federal law because they acquired them knowing or having reason to know  
3 that they were acquired by improper means.

4 154. Additionally, Defendants Morgan and Ambyth misappropriated Silver Fern's  
5 trade secrets because at the time they obtained and used them without Silver Fern's permission,  
6 Defendants knew or had reason to know that their knowledge of Silver Fern's trade secrets was  
7 derived from or through a person who had utilized improper means to acquire them, acquired  
8 them under circumstances giving rise to a duty to maintain their secrecy or limit their use, or  
9 derived them from or through a person who owed a duty to Silver Fern to maintain their secrecy  
10 or limit their use. Alternatively, Defendants Morgan and Ambyth misappropriated Silver Fern's  
11 trade secrets by using them without permission, knowing or having reason to know that the  
12 information constituted trade secrets acquired by accident or mistake.

13 155. In addition to appropriating Silver Fern's trade secrets in its corporate capacity,  
14 Ambyth is liable for trade secret misappropriation due to the conduct of its employees/self-styled  
15 partners—Defendants Lyons, Kinto, and Holmes—within the scope of their employment with,  
16 and for the benefit of, Defendant Ambyth. Specifically, Defendants Lyons, Kinto, and Holmes  
17 knowingly obtained, used, and disseminated Silver Fern's trade secrets as identified above, and  
18 each did so within the scope of their employment for, and for the benefit of, Defendant Ambyth.

19 156. As a direct and proximate result of Defendants' conduct, Silver Fern has suffered  
20 and will continue to suffer irreparable financial loss, loss of goodwill, and the loss of the  
21 confidentiality of its trade secrets, for which there is no adequate remedy at law.

22 157. Silver Fern has also suffered substantial damage as a direct and proximate cause  
23 of Defendants' conduct in an amount to be proven at trial.



1 other time and money) to identify and develop vendor relationships described above, among  
2 other things. For Defendants to have created and maintained the same data, information,  
3 relationships with customers, relationships with vendors, and contacts, would have taken tens of  
4 thousands of employee hours and many years of development. For these same reasons, Silver  
5 Fern's trade secrets are novel—i.e., they are not readily ascertainable from another source.

6 165. Defendants Lyons, Kinto, and Holmes knew or had reason to know that Silver  
7 Fern's trade secrets were improperly obtained, particularly because each was aware during his  
8 employment with Silver Fern that he had an ongoing duty to maintain the confidentiality of  
9 Silver Fern's trade secrets even following his departure from Silver Fern. Their use of Silver  
10 Fern's trade secrets to further Defendant Ambyth's conversion of Silver Fern's business  
11 relationships contravened these ongoing obligations of confidentiality, and they constitute  
12 acquisition, distribution, and use of Silver Fern's trade secrets by improper means.

13 166. Defendants have, in record time, converted Silver Fern's business relationships,  
14 including its relationships with its largest customers and vendors. As such, Silver Fern's trade  
15 secrets have been of immense value to Defendants in their efforts to quickly realize business  
16 opportunities for which they did not independently invest time or resources. Defendants  
17 misappropriated Silver Fern's trade secrets for that reason, and they have also realized economic  
18 value from that misappropriation.

19 167. In violation of Silver Fern's rights under the Washington Uniform Trade Secrets  
20 Act, RCW 19.108.010, Defendants misappropriated Silver Fern's trade secrets in an improper  
21 and unlawful manner as alleged herein. Defendants Lyons, Kinto, and Holmes misappropriated  
22 Silver Fern's trade secrets under state law because they acquired them knowing or having reason  
23 to know that they were acquiring them by improper means.

1           168.   Additionally, Defendants Morgan and Ambyth misappropriated Silver Fern's  
2 trade secrets because at the time they obtained and used them without Silver Fern's permission,  
3 Defendants knew or had reason to know that their knowledge of Silver Fern's trade secrets was  
4 derived from or through a person who had utilized improper means to acquire them, acquired  
5 them under circumstances giving rise to a duty to maintain their secrecy or limit their use, or  
6 derived them from or through a person who owed a duty to Silver Fern to maintain their secrecy  
7 or limit their use. Alternatively, Defendants Morgan and Ambyth misappropriated Silver Fern's  
8 trade secrets by using them without permission, knowing or having reason to know that the  
9 information constituted trade secrets acquired by accident or mistake.

10           169.   In addition to appropriating Silver Fern's trade secrets in its corporate capacity,  
11 Ambyth is liable for trade secret misappropriation due to the conduct of its employees/self-styled  
12 partners—Defendants Lyons, Kinto, and Holmes—within the scope of their employment with,  
13 and for the benefit of, Defendant Ambyth. Specifically, Defendants Lyons, Kinto, and Holmes  
14 knowingly obtained, used, and disseminated Silver Fern's trade secrets as identified above, and  
15 each did so within the scope of their employment for, and for the benefit of, Defendant Ambyth.

16           170.   As a direct and proximate result of Defendants' conduct, Silver Fern has suffered  
17 and will continue to suffer irreparable financial loss, loss of goodwill, and the loss of the  
18 confidentiality of its trade secrets, for which there is no adequate remedy at law.

19           171.   Silver Fern has also suffered substantial damages as a direct and proximate cause  
20 of Defendants' conduct in an amount to be proven at trial.

21           172.   Silver Fern is also entitled to recover the amounts by which Defendants have been  
22 unjustly enriched by their misappropriation.  
23

1           173. Because Defendants' conduct was willful and malicious as described herein,  
2 Silver Fern is also entitled to an award of exemplary damages equal to twice the damages  
3 awarded as actual losses and unjust enrichment.

4           174. Because Defendants' conduct was willful and malicious as described herein,  
5 Silver Fern is also entitled to its reasonable attorneys' fees.

6                                   **SIXTH CAUSE OF ACTION**  
7                                   **TORTIOUS INTERFERENCE**  
8                                   **(Against All Defendants)**

9           175. Silver Fern incorporates by reference the foregoing paragraphs as if fully set forth  
10 herein.

11           176. Silver Fern had and continues to have valid business expectancies with its past  
12 and present customers and vendors as alleged herein.

13           177. Defendants knew of those expectancies through Defendants Lyons, Kinto, and  
14 Holmes' employment with Silver Fern.

15           178. Defendants intentionally interfered with those expectancies or caused their  
16 terminations as alleged herein.

17           179. Defendants interfered with Silver Fern's relationships for an improper purpose or  
18 using improper means, including but not limited to unlawfully using Silver Fern's confidential  
19 and trade secret information to convert Silver Fern's business expectancies for Defendants' own  
20 economic benefit.

21           180. Silver Fern has also suffered substantial damages as a direct and proximate cause  
22 of Defendants' conduct in an amount to be proven at trial.  
23

**SEVENTH CAUSE OF ACTION  
TORTIOUS INTERFERENCE  
(Against Defendants Morgan and Ambyth)**

181. Silver Fern incorporates by reference the foregoing paragraphs as if fully set forth herein.

182. Silver Fern had a valid business relationship and contracts containing confidentiality provisions with respect to Defendants Lyons, Kinto, and Holmes.

183. Knowing of and about those relationships and confidentiality agreements, Defendants Morgan and Ambyth intentionally facilitated, encouraged, and induced Defendants Lyons, Kinto, and Holmes to breach their contractual obligations to Silver Fern.

184. Defendants Morgan and Ambyth interfered with Silver Fern's relationships for an improper purpose or using improper means, including but not limited to unlawfully using Silver Fern's confidential and trade secret information to convert Silver Fern's business expectancies for Defendants' own economic benefit.

185. As a result of Defendants Morgan and Ambyth's intentional interference with these relationships and contracts, Silver Fern has been and will continue to be irreparably injured, and Defendants Morgan and Ambyth will be unjustly enriched.

186. Silver Fern has also suffered substantial damages as a direct and proximate cause of Defendants' conduct in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Silver Fern prays for judgment against Defendants as follows:

a. Entering an order of injunction to prevent Defendants from committing future violations of the Defend Trade Secrets Act and Washington Uniform Trade Secrets Act;

b. Requiring Defendants to pay Silver Fern's monetary damages caused by Defendants' breaches of contract, theft of trade secrets, and tortious interference;

c. Requiring Defendants to pay Silver Fern the amounts by which Defendants have been unjustly enriched by their misappropriation;

d. Finding that Defendants acted willfully and maliciously, and awarding Silver Fern exemplary damages equal to twice the damages awarded as actual losses and unjust enrichment;

e. Finding that Defendants acted willfully and maliciously, and awarding Silver Fern its reasonable attorneys' fees and costs;

f. Awarding Silver Fern pre-judgment and post-judgment interest; and

g. Awarding such other and further relief as this Court may deem just and proper.

#### **DEMAND FOR JURY TRIAL**

Silver Fern hereby demands a trial by jury on all appropriate issues raised in this Complaint.

Dated: May 24, 2023

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